



Rule(s) Review Checklist Addendum
(This form must be filled out electronically.)

This form is to be used only if the rule(s) was/were previously reviewed, and has/have not been amended/repealed subsequent to that review.

All responses should be in **bold** format.

Document(s) Reviewed (include title): **WAC 458-20-115, Sales of packing materials and containers**

Date last reviewed: **July 1, 1999**

Reviewer: **Gilbert Brewer**

Date current review completed: **May 5, 2003**

Briefly explain the subject matter of the document(s):

Rule 115 explains the business and occupation (B&O), retail sales, and use tax reporting responsibilities of persons that sell or use packing materials.

Type an "X" in the column that most correctly answers the question, and provide clear, concise, and complete explanations where needed.

1. Public requests for review:

YES	NO	
	X	Is this document being reviewed at this time because of a public (e.g., taxpayer or business association) request?

If "yes," provide the name of the taxpayer/business association and a brief explanation of the issues raised in the request.

2. Related statutes, interpretive and/or policy statements, court decisions, BTA decisions, and WTDs: (Excise Tax Advisories (ETAs), Property Tax Advisories and Bulletins (PTAs/PTBs), and Interim Audit Guidelines (IAGs) are considered interpretive and/or policy statements.)

YES	NO	
	X	Are there any statutory changes subsequent to the previous review of this rule that should be incorporated?
	X	Are there any interpretive or policy statements not identified in the previous review of this rule that should be incorporated? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)



	X	Are there any interpretive or policy statements that should be repealed because the information is currently included in this or another rule, or the information is incorrect or not needed? (An Ancillary Document Review Supplement should be completed for each and submitted with this completed form.)
	X	Are there any Board of Tax Appeals (BTA) decisions, court decisions, or Attorney General Opinions (AGOs) subsequent to the previous review of this rule that provide information that should be incorporated into this rule?
X		Are there any administrative decisions (e.g., Appeals Division decisions (WTDs)) subsequent to the previous review of this rule that provide information that should be incorporated into the rule?
	X	Are there any changes to the recommendations in the previous review of this rule with respect to any of the types of documents noted above? (An Ancillary Document Review Supplement should be completed if any changes are recommended with respect to an interpretive or policy statement.)

If the answer is “yes” to any of the questions above, identify the pertinent document(s) and provide a brief summary of the information that should be incorporated into the document.

Det. No. 00-119, 20 WTD 117 (2001) found that pallets sold with manufactured goods should be included in the value of the products manufactured for manufacturing B&O tax purposes. The rule should note this result and perhaps cross-reference Rules 112 & 136.

3. Additional information: Identify any additional issues (other than those noted above or in the previous review) that should be addressed or incorporated into the rule. Note here if you believe the rule can be rewritten and reorganized in a more clear and concise manner.

The rule should add the standard discussion of deferred sales tax.

4. Listing of documents reviewed: The reviewer need identify only those documents that were not listed in the previous review of the rule(s). Use “bullets” with any lists, and include documents discussed above. Citations to statutes, interpretive or policy statements, and similar documents should include titles. Citations to Attorney General Opinions (AGOs) and court, Board of Tax Appeals (BTA), and Appeals Division (WTD) decisions should be followed by a brief description (i.e., a phrase or sentence) of the pertinent issue(s).

Statute(s) Implemented:

Interpretive and/or policy statements (e.g., ETAs, PTAs, and IAGs):

Court Decisions:

Board of Tax Appeals Decisions (BTAs):



Appeals Division Decisions (WTDs):

- **Det. No. 99-238, 18 WTD 466 (1999) -- Out-of-state brewery sold beer at wholesale within Washington. The beer was sold in kegs for which a refundable deposit was charged and which were shipped on pallets. The kegs were exempt from use tax as a returnable container for beverages, even though the sale was at wholesale. The pallets, however, were not exempt and, therefore, subject to use tax.**
- **Det. No. 00-048, 19 WTD 977 (2000) -- Where a trucker purchases pallets to carry cargo owned by others, the pallets are purchased for the trucker's own use and are subject to retail sales/use tax. Where the pallets are immediately exchanged with manufacturers (the goods to be shipped are already loaded on the manufacturer's own pallets) without intervening use, the pallets are purchased for resale and are exempt from retail sales tax.**
- **Det. No. 00-106, 20 WTD 84 (2001) -- Where Taxpayer sprayed potatoes with sprout inhibitor, the spray did not qualify as "packing materials" since it did not contain or protect the potatoes, nor was it used to transport or deliver the potatoes.**
- **Det. No. 00-119, 20 WTD 117 (2001) -- A brewery sold beer packaged and shrink-wrapped on pallets. Title to the pallets passed to customer upon delivery. The brewery separately itemized the price for the pallets. Nonetheless, the cost for the pallets was included in the value of the products manufactured. The decision noted that Rule 115 applied where a pallet is not sold with the product shipped upon the pallet and reasoned that a contrary situation would not be covered by Rule 115.**

Attorney General Opinions (AGOs):

Other Documents (e.g., special notices or Tax Topic articles, statutes or regulations administered by other agencies or government entities, statutes, rules, or other documents that were reviewed but were not specifically relevant to the subject matter of the document being reviewed):

5. Review Recommendation:

- | | |
|---------------------|---|
| _____ | Amend |
| _____ | Repeal/Cancel (Appropriate when action is not conditioned upon another rule-making action or issuance of an interpretive or policy statement.) |
| <u> X </u> | Leave as is (Appropriate even if the recommendation is to incorporate the current information into another rule.) |
| _____ | Begin the rule-making process for possible revision. (Applies only when the Department has received a petition to revise a rule.) |



Explanation of recommendation: Provide a brief summary of your recommendation, whether the same as or different from the original review of the document(s). If this recommendation differs from that of the previous review, explain the basis for this difference.

If recommending that the rule be amended, be sure to note whether the basis for the recommendation is to:

- Correct inaccurate tax-reporting information now found in the current rule;
- Incorporate legislation;
- Consolidate information now available in other documents (e.g., ETAs, WTDs, court decisions); or
- Address issues not otherwise addressed in other documents (e.g., ETAs, WTDs, court decisions).

The changes suggested above are not major and can wait until the rule requires other revisions.

6. Manager action: Date: 6/4/03

AL Reviewed and accepted recommendation

Amendment priority:

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